



## 2005 ASSEMBLY BILL 35

January 25, 2005 - Introduced by Representatives JESKEWITZ, LOEFFELHOLZ, KERKMAN, LOTHIAN, HINES, VOS and STONE, cosponsored by Senators LAZICH, STEPP, BROWN, LASSA and ROESSLER. Referred to Committee on Judiciary.

1     **AN ACT** *to renumber and amend* 985.03 (2); *to amend* 985.01 (5) and 985.14;  
2           *to repeal and recreate* 985.03 (1) (a); and *to create* 985.02 (3) and (4), 985.03  
3           (3) and 985.07 (5) of the statutes; **relating to:** the qualifications of newspapers  
4           permitted to publish legal notices and allowing mailing and Internet posting of  
5           legal notices instead of publishing.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a newspaper must meet certain qualifications to be eligible to receive compensation for publishing legal notices. Currently, to receive that compensation, a newspaper must have been published regularly and continuously in the city, village, or town where published for at least two of the last five years. In addition, the newspaper must have a paid circulation that is at least 50 percent of its circulation and have actual subscribers of not less than 1,000 copies if in a first or second class city, or 300 copies if in a third or fourth class city or in a village or town.

Under this bill, newspapers that have been in existence for at least two years and are published and delivered, without requiring a subscription fee, to 80 percent of the households and businesses in the newspaper's coverage area are also eligible to receive compensation for publishing legal notices for cities, villages, and towns. Also, these free newspapers are not required to publish news.

The bill also allows a second, third, or fourth class city, village, town, sewerage district, school district, drainage district, or county (municipality) to designate a newspaper as the official newspaper for publishing legal notices even if the

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newspaper does not meet the other statutory requirements if the newspaper is published at least weekly and is determined, after a public hearing, to give better notice to more people affected by the notice than a newspaper that does meet the other statutory requirements. The municipality's governing body must consider certain criteria in designating the official newspaper, such as the newspaper's cost and frequency of publication.

Finally, this bill allows a municipality to mail a notice to each person affected by the notice instead of publishing the notice in a newspaper and allows a municipality of any size, including a first class city, to post the notice on the Internet instead of publishing, if the municipality enacts an ordinance allowing it to do so.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 985.01 (5) of the statutes is amended to read:

2           985.01 (5) A newspaper is "published" at the place ~~from which its mailing~~  
3 ~~permit is issued, except that if the place where the newspaper has its major~~  
4 ~~concentration of circulation has no primary post office, then at the place it shall~~  
5 ~~designate that the newspaper designates~~ as its place of publication in the affidavit  
6 ~~certificate~~ required by s. 985.03 (2), but no newspaper shall have more than one place  
7 of publication during the same period of time.

8           **SECTION 2.** 985.02 (3) and (4) of the statutes are created to read:

9           985.02 (3) The governing body of a municipality may elect to mail a notice to  
10 each person affected instead of publishing under this chapter.

11           (4) A municipality may elect to post a notice on the Internet instead of  
12 publishing under this chapter, if the municipality adopts an ordinance allowing it to  
13 do so.

14           **SECTION 3.** 985.03 (1) (a) of the statutes is repealed and recreated to read:

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1           985.03 (1) (a) Except as provided in sub. (3), no publisher of any newspaper in  
2 this state shall be awarded or be entitled to any compensation or fee for the  
3 publishing of any legal notice unless one of the following conditions is met:

4           1. For at least 2 of the 5 years immediately before the date of the notice  
5 publication, the newspaper has been published regularly and continuously, has had  
6 a bona fide paid circulation that has constituted 50 percent or more of its circulation,  
7 and has had actual subscribers at each publication of not less than 1,000 copies in  
8 1st and 2nd class cities, or 300 copies if in 3rd and 4th class cities, villages, or towns.

9           2. For at least 2 continuous years the newspaper has been in existence and has  
10 been published and delivered, without requiring a subscription fee, to at least 80  
11 percent of the households and businesses in the newspaper's coverage area, which  
12 includes the city, village, or town that uses the newspaper to publish a legal notice,  
13 as demonstrated by an annual, independent audit. Notwithstanding par. (c), a  
14 newspaper under this subdivision is not required to contain at least 4 pages or 20  
15 percent of the publication space, whichever is greater, of reports of happenings of  
16 recent occurrence of a varied character, such as political, social, moral, and religious  
17 subjects, designed to inform the general reader.

18           **SECTION 4.** 985.03 (2) of the statutes is renumbered 985.03 (2) (a) and amended  
19 to read:

20           985.03 (2) (a) Any person charged with the duty of causing legal notices to be  
21 published, and who causes any legal notice, to be published in any newspaper not  
22 eligible to so publish under the requirements of sub. (1) or (3), or who fails to cause  
23 such legal notice to be published in any newspaper eligible under this section, may  
24 be fined not to exceed \$100 for each offense. Each day in which a legal notice should  
25 have been but was not published as required by law shall constitute a separate

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1 offense hereunder. This penalty does not apply if the person also publishes the same  
2 legal notice in a newspaper eligible to publish a legal notice under sub. (1) or (3).

3 (b) A newspaper, in order to be eligible to publish a legal notice under this  
4 section, shall also file a certificate with the county clerk stating that it qualifies  
5 under this section and stating its place of publication.

6 **SECTION 5.** 985.03 (3) of the statutes is created to read:

7 985.03 (3) Notwithstanding sub. (1), a 2nd, 3rd, or 4th class city, or a village,  
8 town, school district, sewerage district, drainage district, or county may designate  
9 as an official newspaper for publishing legal notices any newspaper that is published  
10 at least once a week in the area where the city, village, town, school district, sewerage  
11 district, drainage district, or county is located if the governing body of that political  
12 subdivision finds, after a public hearing, that the designated newspaper would  
13 generally give better notice to more persons affected by the notice than a newspaper  
14 qualified to publish a legal notice under sub. (1). In designating an official  
15 newspaper under this subsection, the governing body of the city, village, town, school  
16 district, sewerage district, drainage district, or county shall consider all of the  
17 following criteria:

18 (a) The cost of the newspaper.

19 (b) The frequency of the newspaper's publication.

20 (c) The number of residents who receive the newspaper, as determined by an  
21 independent audit.

22 (d) The extent to which the newspaper covers news related specifically to the  
23 city, village, town, school district, sewerage district, drainage district, or county.

24 **SECTION 6.** 985.07 (5) of the statutes is created to read:

